Applicants' Amendment filed January 7, 2010 is acknowledged. Claims 1-6 are canceled. Claims 7 and 8 remain under consideration.

An Information Disclosure Statement filed January 14, 2010 is further acknowledged and has been reviewed.

A Declaration of Eckhard Weber, Ph.D., under 37 CFR § 1.132 filed January 7, 2010 is further acknowledged. The Declaration is persuasive. The rejection of record of the claims under 35 U.S.C. 103 as being unpatentable over Doi et al., US 2004/0058914 is withdrawn. The model used in the experimental Examples in Doi is not a model for urinary incontinence. The experimental evidence in Doi is drawn to the effectiveness of combination drug therapy in increasing cyclophosphamide-impaired bladder capacity.

## EXAMINER'S AMENDMENT

In the Abstract, on line 2, "e.g. use in" is deleted and -- for use in the treatment of -- is inserted therefor.

## REASONS FOR ALLOWANCE

According to the teachings of Gerspacher et al., WO 98/07694, acylaminoalkenylene derivatives of formula (I) are especially effective as $NK_1$ and $NK_2$ antagonists. See page 3, lines 16-19. DNK333, N-[(1R,2E)-1-[(3,4-dichlorophenyl)methyl]-4-[[(3R)-hexahydro-2-oxo-1H-azepin-3-yl]amino]4-oxo-2-buten-1-yl]-N-methyl-3,5-bis(trifluoromethyl)-benzamide, is encompassed in Gerspacher's teaching, when in formula I, R is phenyl substituted twice with trifluoromethyl, $R_1$ is

methyl, $R_2$ is hydrogen, $R_3$ is phenyl twice substituted with chloro, $R_4$' and $R_4$" are each independently hydrogen and $R_5$ is D-azacycloheptan-2-on-3-yl.

Further, Lecci et al., European Journal of Pharmacology, teaches the involvement of spinal tachykinin $NK_1$ and $NK_2$ receptors in detrusor hyperreflexia during chemical cystitis in anesthetized rats. The title of the article suggests increased contractile activity of the detrusor muscle of the bladder results in urinary incontinence. However, there is no motivation to select DNK333 specifically from among the antagonists disclosed by Gerspacher with a reasonable expectation of treating urinary incontinence. The experimental model disclosed by Lecci is not a model for urinary incontinence. The experimental data provided by Gerspacher are directed to chemical cystitis and DNK333 is not employed.

Thus one of ordinary skill in the art would not have arrived at the instant invention. Other secondary considerations, such as the unexpected properties attributed to the administration of DNK333, are noted. According to the Declaration filed January 14, 2010, when compared to other compounds known in the art for the treatment of urinary incontinence, DNK333 exhibited few side effects, clinical safety and tolerability. See paragraph 12 and Example 3 of Exhibit A. DNK333 is a triple antagonist, acting not only on $NK_1$ and $NK_2$, but also on $NK_3$ receptors. See paragraph 14 and Table 2 in the Declaration. All three neurokinin receptors are expressed on cells modulating urinary bladder motor and sensory function.

Claims 7 and 8 are therefore allowed in view of the contemporary knowledge of the art.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached from 10:30 to 7 PM.

If attempts to reach the Examiner by telephone are unsuccessful after one business day, the Examiner's supervisor, Ardin Marschel, can be reached 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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March 12, 2010

/Phyllis G. Spivack/
Primary Examiner, Art Unit 1614